

1    Albert K. Heitzmann  
 2    P.O. Box 7227  
 3    Phoenix, AZ 85011  
 4    Telephone: (602) 321-0615  
 5    Pro Se

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<input type="checkbox"/> RECEIVED	<input type="checkbox"/> COPY
JAN 27 2011	
CLERK U S DISTRICT COURT	
DISTRICT OF ARIZONA	
BY <i>[Signature]</i> Z DEPUTY	

6

7           **IN THE UNITED STATES DISTRICT COURT**  
 8           **DISTRICT OF ARIZONA**

<p>ALBERT K. HEITZMANN,    an individual,    Plaintiff,</p> <p>vs.</p> <p>County of Maricopa,    a political subdivision of the    State of Arizona,    Defendant.</p>	<p>Case No.:  <b>CIV '11 017 9 PHX JAT</b></p> <p><b>COMPLAINT</b></p>
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9

10          **COMPLAINT:**  
 11          Misuse of *Franzi vs Superior Court*, 1984, to convict Heitzmann of perjury.

12

13          **BACKGROUND OF THE CASE:**

14          1. On December 13, 2006, Heitzmann testified at the murder trial of Mr. Paul Speer. (CR2002-010926) He never told the jury Speer did not commit the murder.

15          2. In May, 2007, Heitzmann was charged with perjury. (CR2007-127543)

16          3. Heitzmann believed that perjury was defined by ARS13-2702 and, since he

17          did not commit perjury under that definition, took his case to trial.

18          4. On December 11, 2007, Heitzmann's Court told him there was a second

19          definition of perjury that, per a 1984 Superior Court Decision, a non-material

20          statement could be "defined" as material, and that he was to be charged under this

21          alternative definition. See Exhibit A: [Transcript of CR2007-127543/ December

22          11, 2007/ Page 3/ Lines 6 thru 23].

1 5. Heitzmann was not authorized to ask the Court to clearly identify the  
2 Decision and asked his public defender. His public defender refused to give him  
3 the title of the Decision. Over the course of the following year, Heitzmann's  
4 attempts to identify the Decision were frustrated. Only when he received his  
5 transcripts a year after the trial, was he able to identify it. It was *Franzi vs*  
6 *Superior Court, 1984.*

7 6. Heitzmann spent over a year attempting to procure a copy of *Franzi* to see  
8 how the State used it to supplement ARS13- 2702. Again, his attempts were  
9 frustrated. Only when he was released from prison on May 16, 2010, was he able  
10 to physically travel to a legal library and examine *Franzi*. He did so on May 18,  
11 2010. Inspection of *Franzi* revealed that it was not an alternative definition of  
12 perjury. It was a case involving confusion over court jurisdiction and had no  
13 applicability to Heitzmann's case. Heitzmann's Court's use of *Franzi* to "define"  
14 him to be guilty of perjury was not correct.

15 7. Per ARS12-821.01 Sections A & B, Heitzmann filed a claim against the  
16 County of Maricopa requesting compensation in the amount of \$885,000 for the  
17 885 days he was incarcerated:

18 [www.adc.state.az.us]/ [Heitzmann's ID: 228072]

19 Per Section B, the claim had to be filed within 180 days of May 18, 2010, the date  
20 Heitzmann discovered his Court's incorrect ruling. Heitzmann filed his claim on  
21 May 21, 2010, beating the deadline by 176 days. See Exhibit B: [NOTICE OF  
22 CLAIM AGAINST MARICOPA COUNTY]

23 8. The Defendant is refusing to honor his claim by ignoring 12-821.01B. The  
24 Defendant is incorrectly claiming that, since Heitzmann was damaged on  
25 December 12, 2007, he should have filed his claim within 180 days of that date.  
26 See Exhibit C: [June 28, 2010 letter from Maricopa County Risk Management]

1

2 **WHEREFORE:**

3 Plaintiff prays for judgment against the Defendant as follows:

4 Order the Defendant to either:

5 \* Explain how *Franzi* can be used to unambiguously “define” a non-material  
6 statement to be material, or

7 \* Honor Heitzmann’s claim and remit, in full, \$885,000 in compensation before  
8 February 24, 2012.

9 In exchange for either of these two forms of relief, Heitzmann offers to forgo all  
10 further monetary claims against the County of Maricopa for issues directly related  
11 to the misuse of *Franzi vs Superior Court* in this case.

12

13 DATED this 27 day of January, 2011.

14

15

By: Albert K. Heitzmann

16

17

Albert K. Heitzmann

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P.O. Box 7227

19

Phoenix, AZ 85011

20

Telephone: (602) 321-0615

21

E-mail: [albert.heitzmann@yahoo.com]

22

23 ORIGINAL and ONE COPY filed

24 this day of January, 2011, with:

25 Clerk of the Court

26 Sandra Day O’Connor U.S. Courthouse

27 401 West Washington Street,

28 Suite 130, SPC1

29 Phoenix, AZ 85003-2118

30

EXHIBIT A

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA.  
IN AND FOR THE COUNTY OF MARICOPA

STATE OF ARIZONA,

Appellee,

VS.

ALBERT KARL HEITZMANN,

Appellant.

)  
1 CA-CR 08-0228  
CR2007-127543-001  
DT

Phoenix, Arizona  
December 11, 2007

10 JUN - 3 AM 9:40

MICHAEL J. FRANKE, CLERK  
BY *Oblique*  
FILED DEP

BEFORE: THE HONORABLE ROSA MROZ, JUDGE

REPORTER'S TRANSCRIPT OF PROCEEDINGS  
(Jury Trial)

DIVISION  
COURT OF APPEALS  
STATE OF ARIZONA  
FILED

SEP 02 2008

PHILIP G. URRY, CLERK  
By KL

JANELL ROSE, RPR  
Certified Court Reporter #50455

Prepared for Appeal

DISCOVERY AND CONFIDENTIAL MATERIAL

SUPERIOR COURT

PAGE 1 of 3

EXHIBIT A EXHIBIT A

1 APPEARANCES

2 On Behalf of the State:

3 Jeannette Gallagher  
4 Maricopa County Attorney's Office

5 On Behalf of the Defendant:

6 Candace Shoemaker  
7 Attorneys at Law

8  
9 INDEX

10 CLOSING ARGUMENT BY MS. GALLAGHER PAGE 18

11 CLOSING ARGUMENT BY MS. SHOEMAKER 62

12 REBUTTAL ARGUMENT BY MS. GALLAGHER 79

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EXHIBIT A EXHIBIT A

1 THE COURT: CR 2007-127543. State vs. Al  
2 Heitzmann.

3 MS. GALLAGHER: Jeannette Gallagher.

4 MS. SHOEMAKER: Candace Shoemaker for Mr.  
5 Heitzmann.

6 THE COURT: I need to put something on the record  
7 I neglected to do yesterday with regard to the charge of  
8 perjury. I need to define the statement to be material  
9 before the jury can make an independent determination of  
10 materiality.

11 Under Franzi vs. Superior Court, 139 Ariz. 556,  
12 679 P2d 1043, 1984. Therefore, I am going to go ahead and  
13 do that. I meant to do that yesterday, and I neglected to  
14 do so.

15 I do find that the statement as charged in the  
16 indictment to be a statement regarding a material --  
17 preliminarily to be a statement of material issue.

18 So I think that's all I need to do under that  
19 case law. Anybody else have any other requirements that  
20 you think I should fulfill before I give the case to the  
21 jury?

22 MS. GALLAGHER: I do not.

23 MS. SHOEMAKER: No, Your Honor.

24 THE COURT: Okay. One last thing to be placed on  
25 the record I want to make sure that the jury instruction I

**EXHIBIT B****EXHIBIT B****NOTICE OF CLAIM AGAINST MARICOPA COUNTY and/or MARICOPA COUNTY SHERIFF**

DATE OF LOSS	TIME OF LOSS	LOCATION OF LOSS		
DEC. 12, 2007	<input type="checkbox"/> AM <input type="checkbox"/> PM	MARICOPA COUNTY SUPERIOR COURT		
CLAIMANT LAST NAME	FIRST NAME	DATE OF BIRTH	SOCIAL SECURITY # REQUIRED TO SETTLE CLAIM	IF MINOR: GIVE PARENT OR GUARDIAN NAME
HELMUTH	ALBERT	8-10-49	527-86-4007	
TELEPHONE	ADDRESS	CITY	STATE	ZIP CODE
Home ( ) - Work ( ) -	P.O. Box 7227	PHOENIX	AZ	85011
DESCRIPTION OF OCCURRENCE				
SEE PAGES 2 & 3 OF THIS DOCUMENT.				
DESCRIBE DAMAGE TO PROPERTY				
None				
IF PERSON(S) INJURED, LIST THE FOLLOWING INFORMATION ON ALL INJURED PARTIES				
Name	Address	Description of injury	DOB	Telephone
1 SELF		WILHELMUS ALBERT HELMUTH ( ) -		
2			( ) -	
RESPONDING POLICE AGENCY:		REPORT #:		
CLAIMANT VEHICLE INFORMATION				
Make	Model	Year	License Plate #	
None				
COUNTY VEHICLE INFORMATION				
Unit Number	Department	County Driver	Licensed Plate #	
None				
IF WITNESSES ARE AVAILABLE, PROVIDE THE FOLLOWING INFORMATION				
Name	Address		Telephone	
1 REPORTER, TRANSCRIPT		( ) -		
2		( ) -		
Specific amount for which your claim can be settled: \$ 885,000				
Claimant signature: M. H. e-f			Date: 5-21-2016	

This form is provided to assist in presenting a claim to Maricopa County that complies with the requirements of A.R.S. § 12-821.01, which defines the requirements for filing a claim against a public entity in the State of Arizona. It is important to complete all applicable items on the form in order to assure compliance with state law. Failure to do so may result in your claim being rejected. Filing a valid claim will always remain your sole responsibility. If your claim is contractual in nature, refer to the guidelines set forth in A.R.S. § 11-622.

The accompanying letter also contains the names and addresses of the persons authorized to accept service of the notice of claim form. It is your responsibility to identify the correct person, entity and/or entities against which your claim is being made, and file the notice of claim with them as required by A.R.S. § 12-821.01. You can mail the completed form.

If you have questions about this form or your claim, it is your responsibility to seek legal advice on your own and at your expense. Please do not call or otherwise contact any employee of Maricopa County or any employee of its officers, boards or districts, to seek assistance with filing a notice of claim or seek any other assistance with respect to your claim. No officer or employee of Maricopa County is authorized to provide legal advice or assistance with the preparation or filing of your claim. If you rely on any information furnished directly or indirectly by any officer or employee of Maricopa County, you do so at your own risk.

If your claim is in regards to a road condition, complete the Road Condition Supplement and mail it with this form.

HEITZMANN'S CASE

EXHIBIT B

CHRONOLOGY

EXHIBIT B

MAY 25, 2002:

A FORMER STUDENT OF MINE, PAUL SPEER,  
COMMITTED A MURDER

POLICE REPORT: DR 2002-20952902

CASE NUMBER: CR 2002-010926

DECEMBER 13, 2006:

I TESTIFIED AT SPEER'S TRIAL.

THE COUNTY ATTORNEY [CA] CLAIMED THAT I  
WAS SEXUALLY INVOLVED WITH SPEER.

DECEMBER 11, 2007:

THE CA CHARGED ME WITH PERJURY FOR  
DENYING SEXUAL INVOLVEMENT WITH SPEER.

CASE NO: CR 2007-127543

REPORTER'S TRANSCRIPT, PAGE 47, LINES 12, 13.

DECEMBER 11, 2007 CONTINUED:

THE CA REALIZED SHE'D MADE A MISTAKE. MY  
ALLEGED LIE WAS NOT MATERIAL AND THIS  
CONSTITUTED FALSE SWEARING, NOT PERJURY.

THE CA ATTEMPTED TO CORRECT THE ERROR BY  
INVOKING A 1984 DECISION: FIRMINI.

REPORTER'S TRANSCRIPT, PAGE 3, LINES 6-17.

HEITZMANN'S CASE  
CITRONLOGY

EXHIBIT B

EXHIBIT B

NOT ONLY DID THE CA. FAIL TO PROVE THAT  
I'D LIED ABOUT MY SEXUAL INVOLVEMENT  
WITH SPIDER, BUT ALSO, THE USE OF FRAUD  
WAS INCORRECT.

IN THE FRAUD CASE, THE ISSUE WAS CONFUSION  
OVER STATE V.S. FEDERAL JURISDICTION, AND  
THAT NO APPLICABILITY TO MY CASE.

AS A RESULT, I WAS IMPROPERLY CONVICTED  
OF PERJURY ON DECEMBER 12, 2007 AND  
SUFFERED 88 DAYS OF INCARCERATION FOR A  
CRIME I DID NOT COMMIT.

I RESPECTFULLY REQUEST COMPENSATION IN  
THE AMOUNT OF \$ 885,000 TO BE PAID IN  
FULL BY AUGUST 30, 2010.

Albert S. Heitzmann

ALBERT S. HEITZMANN

MAY 21, 2010

ATTACHED: DECEMBER 11, 2007 REPORTER'S TRANSCRIPT,  
PAGES 3 AND 17, 48.

PAGE 3 OF 3



**Maricopa County**  
Risk Management

222 N. Central Avenue  
Suite 1110  
Phoenix, Arizona 85004  
Phone: (602) 506-2298  
Fax: (602) 506-5939

June 28, 2010

Albert Heitzmann  
PO Box 7227  
Phoenix, Az 85011

Re: **Notice of Claim against County Attorney**

Date of Incident: **December 2007**  
Our file: **GL 19019450-36003**

Dear Mr. Heitzmann:

Your claim is denied again. The statute of limitations has expired.

We cannot give legal advice. Should you have questions, it is your responsibility to seek legal advice on your own.

Sincerely,

A handwritten signature in black ink that appears to read "Jeannie Bowman".

Jeannie Bowman  
Senior Claim Adjuster  
Maricopa County Risk Management